

Notes on Tribal Consultation – interagency consultation work.

Chairman Archambault, Chairman Fluke (Sisseton-Whapeton), Chairman Trudeau (Santee-Sioux).. CJ Clifford (?).. helped to set it all up.

New VP & New President: Scott Weston

Chairman, CRST

Darla Black -VP OST

Al Nygard (MHA)

Several Tribes from R8 present

Big things: Timing – far too long, early on in projects (to have Tribes at the table).

Better way to reach out –

i.e. Consultation – 300 forms of consultation from USACE -

Solutions – reaching out – government-to-government level – outreach can be more broad.

Consultation (after the fact) – if 51% at the table.

Treaty rights – message – treaties are mentioned in the constitution – (supreme law of the land)..

Regs (consulting on) don't fit neatly with Treaty Rights – e.g. – denying the permits based on Treaty rights (rather than regs)

EJ – suggestion: EPA, CEQ & DOI – get EJ principles into the NEPA process.

Cumulative impacts (especially in Corp projects) –

(Take aways from DB – we've done a pretty comprehensive cumulative impacts analysis)

Consultation isn't enough – it should be informed consent. Tribes have a seat at the table & not after-the-fact

UNDRIP

Executive Order on Consultation – what can they do differently. Regulatory schemes – do they need a bigger regulatory fix – more developed, congressional support

Consultation – should be “legally binding” –

Don’t understand tribal partners that we’re supposed to be working with..

NHCHP – working effectively (training within the agency) – want to see & have input on the training. (Consultation on development).. working for one tribe doesn’t work for another

- Different tribal consultation depending on agency.
- Leadership turn-over.

Continual need to get the Tribes at the table for the need to consult.

Be prepared (before they move around).. “attempts to consult” – have a track record. EPA considers this consultation – disclosures..

Water security- an interest above all else (consider within decision making) –

? Individual agencies?

Several issues on the Corp – not enough time to comment on EA’s and EIS’s..

- Don’t have the people speak the same language.
- Technical resources – somehow get this information across to the Tribes.

THPO’s who have technical knowledge could get with the PHS..

- Accommodation of all three.

James Cross – OST- coordination across agencies- “informed consent” – meaningful information for them to have. Need briefing & background

? Notice – potential tribal impacts.

Balance trust responsibility, etc. – information what they may be hearing about - ..

For DB: not at the end game.

Once the permits issued – what's our intention to consult?

Ponca: flawed study on fracking, not really identifying impacts on drinking water- Earthquakes – etc.
– Air issues – well heads – 30 of 30 were leaking.

For DB:

- Identify how/when we're consulting – (one-on-one), etc. – they don't want the surrogates, having that conversation with someone else isn't appreciated
- Explaining their input and how it was considered.

- Recommendations that have gone out.

R8 Guidance – didn't get guidance technicalities. Treaty Rights training. Consultation training.